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In re Application of :
WANG *et al* :
Application No.: 10/526,445 :
PCT No.: PCT/IL2003/000723 :
Filing Date: 02 September 2003 :
Priority Date: 04 September 2002 :
Attorney Docket No.: 29374 :
For: DENATURANT STABLE AND/OR :
PROTEASE RESISTANT, :
CHAPERONE-LIKE OLIGOMERIC :
PROTEINS, POLYNUCLEOTIDES :
ENCODING SAME, THEIR USES AND :
METHODS OF INCREASING A :
SPECIFIC ACTIVITY THEREOF :

DECISION

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed 28 February 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is hereby **DISMISSED** without prejudice.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). The petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

Applicants submitted an amendment that states, in part:

11/526,445

This application is a National Phase Application of PCT/IL03/00723 having International Filing Date of September 2, 2003, which claims priority from U.S. Patent Application No. 10/233,409 filed on September 4, 2002, . . .

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional or international application designating the U.S. applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional or international application. In this case, the amendment does not identify the relationship of U.S. Application No. 10/233,409 September 4, 2002 to the instant application.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a substitute amendment (complying with 37 CFR 1.121) stating the relationship of the prior-filed international application to the instant application is required.

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to the Office of PCT Legal Administration at (571) 273-04559, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Any questions concerning this matter may be directed to James Thomson at (571) 272-3302.



Boris Milef
Legal Examiner
Office of PCT Legal Administration